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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,910	09/28/2001	Jeffery A. Sylvester	BELL-0120/01126	4236

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EXAMINER

ENG, GEORGE

ART UNIT PAPER NUMBER

2643

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*yw*

**Office Action Summary**

Application No.

09/965,910

Applicant(s)

SYLVESTER ET AL.

Examiner

George Eng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-10, 12-15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-10, 12-15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to the amendment filed 1/12/2004.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 2-4, 7-8, 10, 12-15 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue (JP 2000-115310) in view of Favaro (US PAT. 4,573,573).

Regarding claims 12-14, Inoue discloses a protective cover (1, figure 1) for a telephone having a keypad (6, figure 1) and a display (5, figure 1), the cover covering on a main body part

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(2, figure 1) of the telephone, which comprises a keypad portion for covering the keypad of the telephone to protect the telephone at the keypad and a display portion for covering the display of the telephone to protect the telephone at the display (figure 1 and abstract). Inoue differs from the claimed invention in not specifically teaching the cover including a securing device for securing a pair of wings that extend generally from lateral side of the keypad portion and along sides of the mounted-to telephone and a strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone. However, Favaro discloses a protective case for portable audio devices comprising a flexible sheet having a selectively adjustable length to accommodate a variety of different-sized mobile terminals comprising a plurality of fasteners (figure 1) read as a security device including a pair of wings that extend from lateral sides and along sides of the mounted-to audio device (figure 4) and a strap (figure 3) that interconnects distal ends of the wings at a rear face of the mounted-to audio devices (figure 3 and col. 3 line 5 through col. 4 line 18). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cover of Inoue including the securing device for securing a pair of wings that extend generally from lateral side of the keypad portion and along sides of the mounted-to telephone and a strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone, as per teaching of Favaro, in order to make provide a selectively accessible envelope for audio devices, which is capable of accommodating audio devices of various sizes.

Regarding claims 2-4, Inoue discloses the telephone further comprising a sound pickup and an ear speaker as shown in figure 1, wherein the cover defines a pickup aperture therein to externally expose the sound pickup and a speaker aperture therein to externally expose the

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speaker, and the cover further defines a bottom aperture (figure 4) through which the telephone enters the cover when cover is mounted thereto, the bottom aperture encompassing the pickup aperture (figure 1 and detailed description).

Regarding claims 7-8, Inoue discloses the telephone further comprising a power and communication connector and the cover defining a power and communications connector aperture therein to externally expose the power and communications connector such that the cover further defines a bottom aperture through which the telephone enters the cover when the cover is mounted thereto, the bottom aperture encompassing the power and communication connector aperture (figure 5).

Regarding claim 10, Inoue discloses the telephone further comprising an internal antenna nub and the cover defining an internal antenna nub aperture therein to externally expose the internal antenna nub (figure 1).

Regarding claims 13-14, Favaro discloses the wings and strap reside adjacent and define a bottom aperture through which an audio device enter the cover when the cover is mounted thereto, wherein the securing device maintains an interference fit with the audio device when the cover is mounted thereto (figures 3-5 and col. 3 lines 5-33).

Regarding claim 15, Favaro disclose the strap being constructed from an elastic material (col. 2 lines 47-53).

Regarding claim 17, Inoue discloses a protective cover (1, figure 1) for a telephone having a keypad (6, figure 1) and a display (5, figure 1), the cover comprising a keypad portion for covering the keypad of the telephone to protect the telephone at the keypad and a display portion for covering the display of the telephone to protect the telephone at the display, wherein

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the cover is formed from a single longitudinally extending piece of a sheet of plastic comprising a bottom zone including the keypad portion, a back zone, and a top zone between the bottom zone and the back zone including the display portion (figure 1 and abstract). Inoue differs from the claimed invention in not specifically teaching the sheet of plastic comprising the bottom zone defining one longitudinal end of the piece, and the back zone defining the other longitudinal end of the piece. However, Favaro teaches such (figure 3 and col. 3 line 5 through col. 4 line 18). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Inoue in having the sheet of plastic comprising the bottom zone defining one longitudinal end of the piece, and the back zone defining the other longitudinal end of the piece, as per teaching of Favaro, in order to make provide a selectively accessible envelope for audio devices, which is capable of accommodating audio devices of various sizes.

Regarding claims 18-20, Favaro discloses the cover comprising two lateral extensions on each lateral side of the piece, one pair of the extensions being on either lateral side of the top zone and the other pair of the extensions being on either lateral side of the back zone, the piece being folded along a generally transverse line between the top zone and back zone such that the respective lateral extensions on each lateral side encounter one another, the encountering extensions being secured to one another and thus running generally along sides of the telephone when the cover is mounted thereto, wherein the fold runs generally along a top face of the audio device when the cover is mounted thereto, and wherein the cover including a securing device for securing a pair of wings that extend generally from lateral side of the keypad portion and along sides of the mounted-to telephone and a strap that interconnects distal ends of the wings at a rear face of the mounted-to telephone (figure 3 and col. 3 line 5 through col. 4 line 18).

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue (JP 2000-115310) in view of Favaro (US PAT. 4,573,573) as applied in claim 1 above, and further in view of Takagi et al. (US PAT. 5,251,329 hereinafter Takagi).

Regarding claim 5, Inoue teaches the cover covering only on a main body part (2, figure 1) of the telephone so that the cover defines apertures therein to externally expose the rest of the telephone components. The combination of Inoue and Favaro differs from the claimed invention in not specifically teaching the telephone further including an external antenna connector and the cover defines an external antenna connector aperture therein to externally expose the external antenna connector. However, it is old and notoriously well known in the art of a radiotelephone comprising an external antenna to send and receive electrical waves, for example see Takagi (figure 2 and col. 4 lines 33-38). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Inoue and Favaro in having the external antenna connector, as per teaching of Takagi, in order to enhance the telephone by providing an additional means for sending and receiving electrical waves. By combining Inoue and Takagi, the cover obviously defines an aperture therein to externally expose the external antenna connector since Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue (JP 2000-115310) in view of Favaro (US PAT. 4,573,573) and Takagi et al. (US PAT. 5,251,329

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hereinafter Takagi) as applied in claim 5 above, and further in view of Flannery (US 2002/0086711).

Regarding claim 6, the combination of Inoue, Favaro and Takagi differs from the claimed invention in not specifically teaching the telephone further including a holster knob. However, it is well known in the art of telephone comprising attaching mechanism, i.e., a holster knob, for attaching the telephone to user or a user's clothing, for example see Flannery (figure 2 and [0016]). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Inoue, Favaro and Takagi in having the holster knob in the telephone, as per teaching of Flannery, in order to make user friendly by attaching the telephone to user or a user's clothing utilizing the holster knob. By combining Flannery with the combination of Inoue, Favaro and Takagi, the cover obviously defines an aperture therein to externally expose the external expose the holster knob because Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue (JP 2000-115310) in view of Favaro (US PAT. 4,573,573) as applied in claim 1 above, and further in view of Flannery (US 2002/0086711).

Regarding claim 6, the combination of Inoue and Favaro differs from the claimed invention in not specifically teaching the telephone further including a holster knob. However, it is well known in the art of telephone comprising attaching mechanism, i.e., a holster knob, for attaching the telephone to user or a user's clothing, for example see Flannery (figure 2 and [0016]). Therefore, it would have been obvious to a person of ordinary skill in the art at the time



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the invention was made to modify the combination of Inoue and Favaro in having the holster knob in the telephone, as per teaching of Flannery, in order to make user friendly by attaching the telephone to user or a user's clothing utilizing the holster knob. By combining Flannery with the combination of Inoue and Favaro, the cover obviously defines a holster knob aperture therein to externally expose the external expose the holster knob because Inoue teaches the cover covers only on the main body part of the telephone (figure 1).

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 2-10, 12-15 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

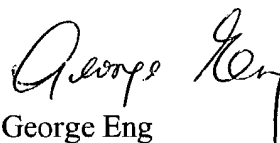
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gormley et al. (US PAT. 5,711,469) discloses a portable phone pouch utilizing a closure strap to seal the top opening of the pouch with a hook and loop material fastening piece (abstract). Smith (US PAT. 5,703,945) discloses a cordless phone caddy having a textile strap releasable securable about the cordless phone (col. 1 line 38 through col. 2 line 15). Herring (US PAT. 5,535,928) discloses a belt supportable carrier for portable articles (abstract).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is 703-308-9555. The examiner can normally be reached on Tue-Fri 7:30 AM-6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A. Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



George Eng  
Primary Examiner  
Art Unit 2643